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IN THE

Supreme Court of the United States

October Term, 1959

No. 137

CHARLOTTE ANDREWS,
Plaintiff and Appellant,

vs.

THE CITY OF SAN BERNARDINO, *et al.*,
Defendants and Appellees.

CHARLOTTE ANDREWS,
Plaintiff and Appellant,

vs.

THE CITY OF SAN BERNARDINO, *et al.*,
Defendants and Appellees.

[redacted] Petition for Rehearing of Order which Dismissed Appeal Treating Appeal as Petition for Certiorari and Denying Certiorari

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Motion for Leave to File and Petition for Rehearing of Order which Dismissed Appeal Treating Appeal as Petition for Certiorari and Denying Certiorari

MOTION FOR LEAVE TO FILE AND PETITION FOR REHEARING OF ORDER DENYING CERTIORARI

Petitioner respectfully moves for leave to file the annexed petition for rehearing of the order of this Court which dismissed her appeal, and treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari was denied, decided on October 10th, 1960.

Rehearing is sought at this time because appellant did not cast her appeal within the normal appellate

process of certiorari and special and important reasons which require settlement may now be considered as controlling in connection with intervening law since the appeal was taken.

The appeal was filed during the prior term of this Court, and dismissed without commenting on the merits during the pending current term of Court; and the Court clearly has power, in its discretion, to entertain the petition.

Dated: Oct. 1960.

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Counsel of Petitioner

Petition for Rehearing of order which dismissed appeal, and treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari was denied.

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Petitioner prays that this Court grant rehearing of its order of October 10th, 1960, which dismissed petitioner's appeal (see Exh. "A"), and treating her papers on appeal as a petition for writ of certiorari, denied certiorari and request is made that a writ of certiorari issue to review the judgments of the State Courts of California, as herein set forth.

REASONS FOR GRANTING REHEARING AND ISSUING THE WRIT

Since the granting of the Order of Court of October 10th, 1960, it has become necessary to call the atten-

tion of the Justices, that the State Court of California has decided in the case at bar a federal question of substance not theretofore determined by this Court. There has since been thrust upon the Court, during its current term, and while it still has jurisdiction of the case at bar, the need for analysis and rule making in connection with the so-called civil rights of suffrage, and the meaningful exercise of the same, which requires the rejection of the California decision.

The case at bar is the only case involving a consideration of voting rights without regard to the "racist" questions involved in numerable matters now pending before the Court in its present term and which refer to related issues which are controlling.

It is of vital importance then, that the Court make an order to reconsider, and pass upon the phases called to its attention in the case at bar to thereby assert an objective counter-weight in an atmosphere heavily laden with civil voting rights but entirely devoid of any reference to the rights of the so-called "white majority" as do the facts in the case at bar.

Distinctions as to race, religion, conqueror and vanquished are interludes which are fleeting in the course of history, and basically, law based upon the unusual situation of the moment, must be balanced by decisions in the important area of voting rights, without reference to race, color or distinctions. It is necessary that the Supreme Court of the United States define an "effective vote" and not leave it to the States to do so.

The right to vote as affected by race or color has perhaps overshadowed its concomitant at issue in this

appeal, i.e. the "integrity of a vote once cast" as an attribute of national citizenship. However to consider one and ignore the other, is to study the top of a bottle and ignore its bottom or base upon which it rests.

The question is of imperative public importance, by virtue that historically courts have regarded the quality and content of a vote cast in a limited way, because in the past the citizen of the United States was endowed with almost complete liberty with regard to his property and person, which was subject to little or no administrative regulation by the government, and was fully and adequately competent to care for his own problems entirely independent of his franchise as an elector.

We are in the present term of court, on the pinnacle of a tremendous change which has been wrought in the citizen's capacity to maintain his integrity by himself, and his ability to protect himself along these lines is diminishing as time passes and in the future promises to be even less.

Supervision over all matters of human conduct, property and liberty have increased and multiplied themselves as the head of hydra, and no longer is the American Citizen symbolized as a frontiersman with his rifle, self-sufficient and providing himself and his family in all things necessary to their being. He is now one infentisma of a great mass, dependent for his very daily sustenance, liberty and property, upon others of the same great mass.

Our Federal Constitution, in its amendments 9 and 10, makes reference to "Rights and Powers retained

and reserved in the People". Circumstances surrounding enactment of the first ten amendments of the constitution leave no doubt that its framers were zealous in maintaining the self-sufficiency and integrity of its people, and this expression of intent and purpose pre-dates the Fourteenth Amendment here in issue.

Historically the elective franchise and the effect of a citizen's vote was secondary in importance, realistic thinking of the time concerned itself more with the sovereign independent individual, and fear was expressed that the democratic process would usurp and infringe upon the rights and powers recognized as inherent in the people.

Advanced technology, errosion of the original concept of the independence of the self-sufficient individual, designated as the "People" of the United States, requires an examination by this Court in its present term of the rights and privileges of United States Citizens, as the People, and whether or not the right to cast an effective vote, when authorized by state law, is a right and power reserved and retained by virtue of the Fourteenth Amendment, now that the former concept of the People as an association of self-sufficient individuals has disintegrated and the elective franchise is now the all important means in controlling individual and collective destinies under and subject to all terms expressed in the United States Constitution.

Where the fundamental law provides for equal rights of suffrage, each citizen should be possessed of the right of judicial redress if the law is violated.

For the reasons as set forth above, it is respectfully

urged that rehearing be granted upon the record already before the Court and that, upon such rehearing, a writ of certiorari issue to the Courts of Appeal of the State of California.

Respectfully submitted,

MANUEL RUIZ, JR.
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Los Angeles, Calif.

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds above specified.

MANUEL RUIZ, JR.
Counsel for Petitioner

Exhibit "A"

SUPREME COURT OF THE UNITED STATES

ANDREWS v. CITY OF SAN BERNARDINO, et al.

APPEAL FROM THE DISTRICT COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT.

No. 137. Decided October 10, 1960.

PER CURIAM.

The motion to dismiss is granted and the appeal is dismissed. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is denied.